

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

DEBORAH LAUFER,
Individually,

Plaintiff,

v.

GALTESVAR OM, LLC,

Defendant.

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Civil Action No. 1:20-CV-00588-RP

**DEFENDANT’S MOTION FOR PROTECTIVE ORDER AND
MOTION TO STAY**

Defendant Galtesvar OM, LLC (“Defendant”) moves for protective order and motion to stay, respectfully showing the Court as follows:

Plaintiff has a pending Motion to Dismiss Plaintiff’s lawsuit based on a lack of standing, which has been referred to Magistrate Judge Lane. Since the completion of briefing on that Motion to Dismiss, the Honorable Judge James R. Nowlin found that Plaintiff did not have standing in a case before him, and he granted an identical motion to dismiss in *Deborah Laufer v. Mann Hospitality, LLC*, Cause No. A-20-CV-00620-JRN. The *Mann Hospitality* case involved the same allegations, the same Plaintiff and essentially the same defendant hotel in a different location. Plaintiff has stated that she plans to appeal the *Mann* decision to the Fifth Circuit.

Given the now persuasive—if not binding authority—in support of finding Plaintiff lacks standing and an award of attorneys’ fees in favor of counsel for the

Defendant in *Mann*, counsel for Defendant suggested that the parties stand-down on discovery and other work on the case so as not to burden Defendant or potentially result in a greater award of attorneys' fees against the Plaintiff if this Court were to follow Judge Nowlin's decision and make such an award. Plaintiff, however, has refused this reasonable proposal.

Accordingly, Defendant brings this Motion to avoid further expense. Even if Defendant may recover a judgment of attorneys' fees against Plaintiff, there is no certainty that she has sufficient assets to satisfy such an award. Moreover, there is no prejudice to Plaintiff to delay discovery and the other deadlines in the case while a ruling on the Motion to Dismiss is rendered.

A. Applicable Legal Principles.

Federal Rule of Civil Procedure 26 provides that a court may, for "good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." FED. R. CIV. P. 26(c)(1). A court may afford that protection by, among other things, forbidding the discovery or specifying the terms, including the time and place, for the discovery. FED. R. CIV. P. 26(c)(1)(A)-(B).

B. The Court Should Protect Defendant From Incurring Further Expense Where Plaintiff Has Been Found Not to Have Standing.

Defendant invokes Rule 26 and "good cause" based on the finding by Judge Nowlin that Plaintiff had no standing in a nearly identical case in this very district. Accordingly, Defendant reasonably asks that the Court issue an order to protect it from the "undue burden or expense" of responding to discovery, such as Plaintiff's Requests for Interrogatories and Requests for Production dated October 7, 2020 (the

“October 7 Discovery”) and other deadlines in the Scheduling Order pending Magistrate Lane’s ruling on Defendant’s Motion to Dismiss this lawsuit for Plaintiff’s lack of standing. This Court has the power pursuant to Rule 26 to afford the protection requested by staying the October 7 Discovery and the other deadlines in the scheduling order until resolution of the Motion to Dismiss by Magistrate Judge Lane and approved by Judge Pittman. FED. R. CIV. P. 26(c)(1)(A)-(B).

CONCLUSION

For the reasons stated above, Defendant requests that the Court grant Defendant’s Motion for Protection and Motion for Stay, protecting Defendant from the October 7 Discovery, and staying all discovery and other deadlines in the scheduling order until resolution of the Motion to Dismiss by Magistrate Judge Lane and approval of that recommendation by Judge Pittman along with such other and further relief to which Defendant may be entitled.

DATED: November 5, 2020

Respectfully Submitted,

/s/ Edward Jason Dennis

Edward Jason Dennis

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ATTORNEY FOR DEFENDANT

CERTIFICATE OF CONFERENCE

Consistent with Local Rule CV-7(f), the parties have conferred in good faith regarding the substance of this Motion but have been unable to resolve the issues presented by agreement. Plaintiff opposes any protection or stay. Accordingly, the Motion is submitted for the Court's determination.

/s/ Edward Jason Dennis
Edward Jason Dennis

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on this day November 5, 2020, via the Court's ECF system to all counsel of record.

/s/ Edward Jason Dennis
Edward Jason Dennis